



PATENT
006701.P002XC4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Nikolchev, et al.

Application No.: 10/600,298

Group Art Unit: 3772

Filing Date: June 20, 2003

Examiner: Michael Brown

For: CONTRACEPTIVE TRANSCERVICAL
FALLOPIAN TUBE OCCLUSION
DEVICES AND METHODS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.131

Sir:

Julian Nikolchev and Dai Ton, the applicants in the above-identified patent application
declare as follows:

We are the sole inventors of the invention claimed in the above identified U.S. Patent Application Serial No. 10/600,298, filed June 20, 2003 ("the '298 application").

We make this declaration under 37 C.F.R. § 1.131 in response to the rejection of the claims under 35 U.S.C. § 103 based upon U.S. Patent No. 6,187,027 to Mariant, *et al.* ("the Mariant reference") in the February 26, 2007 Office Action.

The present patent application claims priority from two patent applications filed on June 7, 1995 that demonstrate possession of the invention claimed herein (serial nos. 08/474,779 and 08/475,252, attached as Exhibits A and B). However, we conceived of the claimed invention prior to the April 28, 1995 filing date of the Mariant reference. The claimed invention was at least constructively reduced to practice with diligence from before April 28, 1995 until the June 7, 1995 filing date of the 08/474,779 and 08/475,252 applications. As evidence of this, the following facts are submitted with supporting documentation:

1. Prior to April 28, 1995, we conceived of the invention claimed herein and prepared the invention disclosures that led to the 08/474,779 and 08/475,252 applications filed on June 7, 1995. Photocopies of these invention disclosures (internal tracking numbers 95003-1 and 95003-2) are attached as Exhibits C and D.

2. On April 29, 1995, we received a letter from our patent counsel acknowledging receipt of the above described invention disclosures (numbers 95003-1 and 95003-2) and noting that counsel would prepare draft patent applications based on these disclosures. This letter is attached as Exhibit E.

3. On Thursday, June 1, 1995, we received a letter from our patent counsel enclosing the draft patent applications for our review. This letter is attached as Exhibit F.

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4. On Monday, June 5, 1995, we met with our patent counsel to discuss final revisions to the applications.

5. On Tuesday, June 6, 1995, we received a letter from our patent counsel enclosing final drafts of the patent applications for our review. This letter is attached as Exhibit G.

6. On Wednesday, June 7, 1995, the patent applications were filed with the U.S. Patent Office and the claimed invention was constructively reduced to practice.

It is respectfully submitted that the present application claims an invention that was conceived of prior to April 28, 1995 and constructively reduced to practice with diligence from before that date until June 7, 1995, the filing date of patent application serial nos. 08/474,779 and 08/475,252 from which the present application claims priority. Accordingly, the Mariant reference should be removed as a reference under 35 USC § 103.

We further declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 3/5/07Inventor Name: 

Julian Nikolchev

Dated: 3/1/07Inventor Name: 

Dai Ton

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